

PT 99-36

Tax Type: PROPERTY TAX

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

GENESEO HISTORICAL ASSOCIATION)	Docket #	97-37-21
Applicant)	A.H. Docket #	98-PT-14
)		
v.)	Parcel Index #	08-21-140-005-0040
)		
THE DEPARTMENT OF REVENUE)	Barbara S. Rowe	
OF THE STATE OF ILLINOIS)	Administrative Law Judge	

RECOMMENDATION FOR DISPOSITION

Appearances: Mable W. Brown, Brown & Ray, Attorneys at Law, for Geneseo Historical Society.

Synopsis:

The hearing in this matter was held at the Illinois Department of Revenue, 101 W. Jefferson, Springfield, Illinois on July 15, 1998, to determine whether or not Henry County Parcel Index No. 08-21-140-005-0040 qualified for exemption during the 1997 assessment year.

Linda Flatt, member and volunteer; Ami Murray, member of the board of directors and volunteer; Donald Feldman, member of the board, treasurer, and volunteer; Angela Snook, Curator of the museum, volunteer, and President of the Association in 1997; Joyce Will, member of the board and President of the Association in 1998; Donald Meier, board member and 1998 Vice-President; and James W. Hale, member and volunteer of the Geneseo Historical Association (hereinafter referred to as the "Applicant") were present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant was the owner of the parcel during the 1997 assessment year; secondly, whether the applicant is a charitable organization; and lastly, whether the parcel was used or being adapted by the applicant for charitable purposes during the 1997 assessment year. Following the submission of all the evidence and a review of the record, it is determined that the applicant owned this parcel during all of the 1997 assessment year. It is also determined that the applicant is a charitable organization. Finally, it is determined that the applicant used varying portions of the subject parcel for charitable purposes during parts of the 1997 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Department that Henry County Parcel Index No. 08-21-140-005-0040 did not qualify for a property tax exemption for the 1997 assessment year was established by the admission into evidence of Dept. Ex. Nos. 1 through 6. (Tr. p. 14)

2. On June 24, 1997, the Department received a property tax exemption application from the Henry County Board of Review for Permanent Parcel Index No. 08-21-140-005-0040. The applicant had submitted the request and the board recommended granting the exemption for the 1997 assessment year. The Department assigned Docket No. 97-37-21 to the application. (Dept. Grp. Ex. No. 2)

3. On February 5, 1998, the Department denied the requested exemption application, finding that the property was not in exempt use and that the applicant failed to submit evidence of compliance with subsection (f) of 35 **ILCS** 200/15-65. That subsection of the Illinois Compiled Statutes requires all taxing districts within which the property of an historical society is situated to adopt a resolution finding that the historical society is a charitable organization using the property exclusively for charitable purposes. (Dept. Ex. No. 3)

4. The applicant timely protested the denial of the exemption and requested a hearing in the matter. (Dept. Ex. No. 4)

5. The hearing convened at the Department's offices in Springfield, Illinois, on July 15, 1998, was held pursuant to that request. (Dept. Ex. No. 5)

6. The applicant acquired the subject parcel by a trustee's deed dated October 11, 1996. The deed was recorded by the Henry County Recorder's Office on October 31, 1996. (Dept. Ex. No. 2 pp. 4-6)

7. Prior to the hearing in this matter, the Chief County Assessor of Henry County supplied the Department with a list of the taxing districts within which this property is situated. The applicant received resolutions from those ten taxing districts. Each of the districts adopted a resolution finding that the society is a charitable organization using the property exclusively for charitable purposes. (Dept. Ex. No. 6; Applicant's Ex. No. 1 pp. 1-13)

8. Located on the subject parcel are a two-story house and a garage with ten stalls. (Dept. Ex. No. 2 p. 1)

9. The buildings on the subject parcel are commonly known as 205 South State Street, Geneseo, Illinois. (Dept. Ex. No. 2 p. 1)

10. The house has 27 rooms, two servant quarters, and a full basement. (Tr. p. 52)

11. At the time of purchase of the subject parcel, the house was divided into four apartments. As of January 1, 1997, three of the apartments were rented. The tenants paid rent until they vacated the apartments. Possession of a portion of the premises by the applicant was withheld on behalf of those tenants by the terms of the original purchase agreement. The applicant realized rental income of \$3,175.00 in 1997. By June 1, 1997, the applicant had possession of the entire building. (Applicant's Ex. No. 2; Tr. pp. 36, 50-52, 73)

12. The area of apartment No. 1 is composed of approximately 1,400 square feet and is upstairs in the northern part of the house. It includes servant rooms in the back. It needed a great deal of work. The apartment was vacated on November 1, 1996. The applicant began renovations in that apartment when they took possession of the house on January 1, 1997. The applicant spent days in the apartment removing wallpaper and repairing the ceiling. The kitchen needed to be torn out. The applicant began the work as soon as they could get into the building

because they wanted a base of operations to begin the conversion of the house into a museum. (Applicant's Ex. No. 3; Tr. pp. 43-44, 50, 77-81, 83)

13. The area of apartment No. 2 is located directly below apartment No. 1 also in the northern part of the building. It is comprised of approximately 1,500 square feet. Once the applicant opened it up, the area included the open stairway in the hall, which increased the square footage to about 2,000 square feet. The apartment was vacated on March 1, 1997. (Applicant's Ex. No. 3; Tr. pp. 44, 81)

14. Apartment Nos. 3 & 4 were vacated on June 1, 1997. At that time the applicant acquired total control of the premises. (Applicant's Ex. No. 3; Tr. pp. 43, 81)

15. The house is structurally sound but required extensive repairs. In the house while it was subdivided as an apartment complex were five bathrooms, three of which needed to be removed. The apartments contained four refrigerators, four ranges and ovens, and the normal paraphernalia associated with a house that had been converted to four apartments. Repairs due to a roof leak were done by the applicant in the house in March 1997. Two of the four kitchens needed to be removed. Such work required that the applicant replace flooring and covering walls. Plumbing needed to be removed. Three furnaces made up the heating system. Interior work that needed to be done by the applicant consisting of repairs to the furnaces and boilers had to be done. (Dept. 2 pp. 26, 33-34, 51; Applicant's Ex. No. 3; Tr. pp. 50-51, 57, 73-75, 84)

16. During 1997, the applicant also did extensive restoration and renovation to enable the house to be used as a museum. Shelving and storage areas were built in the garage and basement. Pipes were replaced and electrical updates and repairs were done. Registers needed to be moved because the heating system had been modified for the four apartments. Doors needed to be removed so that people could walk through the entire house. Cupboards and shelves were built in four rooms on the second floor for the storage of applicant's artifacts. The applicant has almost 18,000 artifacts. Old wallpaper needed to be steamed off, walls needed painting, and a ceiling was falling down that needed to be propped up. Ceiling plastering was underway by October 27, 1997. A floor needed to be reinforced for the installation of the chandelier in the

parlor. Carpeting was torn out in both the upstairs and downstairs area and the original floors restored. It was unsafe for the general public to go through the house while the restoration was taking place as the applicant had electrical cords around, carpeting torn up, and loose boards pulled up. In addition, the basement needed to be restored, especially the tuck pointing of bricks, repairing leaks around basement windows, and replastering a wall. The applicant has on-going plans for continued renovation. (Dept. 2 pp. 26, 33-34, 51; Applicant's Ex. No. 3; Tr. pp. 50-51, 57, 73-75, 84)

17. While the renters occupied the premises, the applicant had to repair garbage disposals that did not work, a roof leak, and plumbing problems. The applicant also had to pay for snow removal. (Tr. pp. 45, 88)

18. Of the ten garage stalls, Vaughn Darling of Darling Construction used two in 1997 to store wood, windows, and building materials used in his business. The monthly charge to Mr. Darling for stalls # 4 & 5 is \$50.00. He apparently planned to and did vacate those stalls in mid 1998. (Dept. Ex. No. 2 p. 33; Tr. pp. 45-46)

19. Each of the remaining tenants was entitled to a garage stall in conjunction with the rental of the apartment. The five remaining stalls that were not rented were used by the museum to store pieces of the collection, mowers, lawn care supplies, wood working tools, and wood used in the construction of the new basement steps and storage shelves. (Dept. Ex. No. 2 p. 33; Tr. pp. 45-46)

20. In March 1997, the applicant celebrated its 25th anniversary. Prior to the purchase of the subject parcel, the applicant operated a museum in what was known as the "old library" which the applicant leased from the library board. The address of that property was 212 South State Street, Geneseo, Illinois. The applicant had operated the museum at that location for 20 years. The library board had for a time, prior to applicant's purchase of the subject parcel, been investigating ways to expand its current library located next door to the museum. The library board had rejected the applicant's offer to purchase the area where the museum was located. (Applicant's Ex. Nos. 7 & 8; Tr. pp. 69, 96-97)

21. The house on the subject parcel is four times larger than the previous area occupied by the applicant. The house has significant historical importance. The initial bricks for the home were laid in 1857. An addition was added shortly thereafter in 1867. It is a lovely Italianate double home. It was reputed to have been a station in the “Underground Railroad” during the civil war. (Applicant’s Ex. Nos. 3 & 8; Tr. pp. 73, 97)

22. On October 7-8, 1997 the applicant put a new tin roof on the garage. In August 1997, museum volunteers painted the exterior of the house. The interior work, as previously found, was extensive. (Dept. Ex. No. 2 pp. 33-34; Applicant’s Ex. No. 3)

23. In May 1997, the Zimmerman family presented the applicant with a larger-than-life-size bronze bust of Abraham Lincoln that was appraised at over \$100,000.00. The bust had been commissioned by the French government in 1928 and presented to Sir Henry Fredrick Prince who lived in Paris. The bust was donated to the applicant in May and the dedication ceremony was held on June 13, 1997. The bust is located on a marble pedestal outside the house on the subject parcel. (Dept. Ex. No. 2 p. 51; Applicant’s Ex. Nos. 3 & 8; Tr. pp. 84-85, 87)

24. The land surrounding the house has also been renovated. The applicant researched Victorian gardens to make the landscaping as authentic as possible. An original brick sidewalk has been uncovered. A daylily garden with a birdbath can be viewed on the premises. There are roses in abundance. An herb garden has also been added. In 1998, window boxes and impatiens were added to the north side of the house. The applicant offers a garden tour as well as the museum tour. The gardens were begun in the spring of 1997. (Applicant’s Ex. No. 3; Tr. pp. 28-31, 87-88)

25. The city of Geneseo has hosted the “Victorian Walk” for twelve years. Streets are blocked off and horse carriage rides are available. Vendors all over the city fill their windows with live scenes depicting the Victorian area. Thousands of people visit the area for the event. (Tr. pp. 63-64)

26. In conjunction with the city event, the applicant was able to host its annual “Victorian Walk” on December 13, 1997 on the subject parcel. About 3,700 visitors were

allowed a sneak preview of the facilities' ground floor. The applicant also had 10-12 groups that came through to see the renovation as it progressed in 1997. One Sunday in November 1997, the applicant opened the premises for the donors to visit. (Applicant's Ex. Nos. 3, 8; Tr. pp. 51-52, 55, 57-58, 62, 70-71, 98-99)

27. The grand opening ceremony of the museum was held on March 3, 1998. The museum is currently open to visitors on Saturdays and Sundays from 1:30 p.m. to 4:30 p.m. at no charge. Group tours are arranged in advance. The curator of the museum is at the museum every day from 9:00 a.m. to 4:00 p.m. and also conducts tours. Daily attendance of visitors at the museum is 15-25 people. At the time of the hearing the building was a viable museum. (Applicant's Ex. Nos. 3, 8; Tr. pp. 51-52, 55, 57-58, 62, 70-71, 98-99)

28. The applicant uses the first floor of the museum for exhibits. The community has "a long Swedish background in German, Belgium and Scottish". The applicant has a large number of people from the Quad City area, which includes Davenport, Rock Island, and Moline, as well as people from Henry County, visit displays associated with that background. Two to three rooms contain displays representing the different ethnic groups. The applicant offers a microcosm of the evolution of the American small town in middle America. The second floor is currently used for storage and a library. Future exhibits could be located in the second floor as the adaptation of the property continues. (Dept, Ex. No. 2 pp. 16, 51; Tr. pp. 53-54, 59-60, 92)

29. The applicant has tours of the museum for school children and others that wish to view the property during the week. During the school year, applicant averages three or four tours of school age children per month. Other organizations such as the Girl Scouts, Boy Scouts, Kiwanis, and Lions clubs also toured the premises in 1998. (Applicant's Ex. No. 4; Tr. pp. 18, 22-24)

30. To arrange a tour of the premises during periods when the applicant is not open, a caller is referred to the home telephone number of the tour guide who also handles research inquiries for historical information. The tour guide is a different person than the curator. (Tr. pp. 17-24)

31. The museum also houses a research room that is open to the public at no charge. Located in that room are materials regarding the conveyances of property in the area. The museum has ledgers showing property transfers for all of Geneseo Township. Much of the material is very old and would disintegrate if handled frequently. The applicant takes requests and looks up the information and provides it to the recipient, all at no charge. Census, cemetery, and taxpayer records are also stored at the museum. (Tr. pp. 21- 24)

32. Children in the area study the history of the town. The applicant offers classes to the students for hands-on showing of activities that were conducted during the Victorian era. The classes are limited in size and offered for the cost of the materials that are used. If a child cannot afford the cost of the class, the fees are waived. The classes were not available until 1998 due to the extensive renovation required on the property. (Applicant's Ex. No. 4; Tr. pp. 19, 25-26)

33. The applicant has membership forms available at the front door. A hatbox for donations sits next to the forms. The membership application form states that no initiation fee or dues are required to join or to remain a member in good standing of the association. The form does state that the applicant happily accepts free-will donations and suggests amounts that a person may want to donate. (Applicants Ex. Nos. 3 & 6; Tr. pp. 60-62, 94)

34. Applicant's bylaws state that the object of the organization is the same as the object stated in its articles of incorporation¹. The types of membership listed in the bylaws depicts seven different classes including: Active-dues of \$5.00 for an individual, \$7.50 for a family; Sustaining-dues \$10.00 per year; Donor-\$25.00 dues per year; Patron-\$50.00 dues per year; Life member-single payment of dues in the amount of \$250.00; Benefactor-donation shall be a minimum of \$2,500.00; and Honorary for members no longer able to be active in the organization but whose past contributions warrant special recognition as determined by the board. An Honorary membership is for the life of the individual. Regarding dues, the bylaws

¹ With the addition of the statement that "No assets or earnings shall inure to the benefit of any member, and the Association shall refrain from carrying on propaganda influencing legislation or interfering in any political campaign."

state that “Members who have not paid their dues by September 1 become delinquent and thereby forfeit their membership in the Association. Reinstatement becomes effective only upon receipt of current dues.” (Dept. Ex. No. 2 pp. 38-39)

35. Various members of the applicant testified that they had not paid dues, yet were allowed to be on the board of directors and volunteer for the applicant. (Tr. pp. 27, 91)

36. The applicant was incorporated under the Illinois General-Not-for-Profit Corporation Act on September 18, 1974 “to study and promote through the joining together of interested persons, the restoration and preservation of historic items and sites in this area which have significance on the local, state, and national levels. A specific object is to establish, maintain and operate for the benefit of the public a permanent museum.” (Dept. Ex. No. 2 pp. 7-8)

37. Applicant’s membership consisted of 53 life members, five benefactors, five courtesy members and 104 nonpaying members. All members are invited to the applicant’s special occasions. The applicant had approximately 255 members at the time of the hearing. The applicant attributes the rise in membership in part to the acquisition of the subject parcel and the knowledge of its benefactors that any donations will go to an attained museum. All members receive the newsletter that was published quarterly in 1997. The last time that the applicant mailed a newsletter, 435 copies were initially sent and additional ones had to be printed to distribute to visitors of the museum. Applicant has also seen an increase in donations since the acquisition of the subject parcel. (Applicant’s Ex. Nos. 5, 6 & 7; Tr. pp. 52-56, 93-94)

38. Contained in the newsletter are descriptions of the displays and prior programs presented. The applicant routinely has an article about the building fund and the move to the new location. Upcoming events are also discussed; special events are highlighted. Historical articles written by members are also included. (Applicant’s Ex. No. 7; Tr. pp. 55-57)

39. The applicant is exempt from payment of income tax pursuant to a 501(c)(3) designation granted by the Internal Revenue Service on October 29, 1982. The applicant is also

exempt from payment of Retailers' Occupation tax and related taxes pursuant to a determination that the applicant is a charitable organization. (Dept. Ex. No. 2 pp. 12-14)

40. The financial statement of the applicant for 1997 establishes a balance on hand at 1/1/97 of \$104,852.00; donations from community chest - \$4,750.00; individual contributions - \$5,115.00; membership dues and fees - \$2,220.00; special fund raising events - \$184,305.00²; interest - \$1,599.00; rent - \$3,175.00; dividends - \$18.00; miscellaneous - \$186.00 for total income of \$306,220.00. The applicant's expenses for that period were \$262,853.00 for a net profit of \$43,367.00. (Applicant's Ex. No. 2; Tr. pp. 33-43)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex. rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

² In the summer of 1996 in anticipation of the purchase of the subject parcel, the applicant began a building fundraiser to cover the costs of the purchase and renovation. The fundraiser was in fact a plea to the community for donations for the building and property in question. The amount shown is the amount received in 1997. The applicant is still receiving money from that endeavor.

Pursuant to the constitutional grant of authority, the legislature has enacted provisions for property tax exemptions. At issue is the provision found at 35 ILCS 200/15-65, which exempts certain property from taxation as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) Institutions of public charity.
- (b) Beneficent and charitable organizations incorporated in any state of the United States, . . .
- (f) An historical society, for purposes of this Section, shall be deemed to be a charitable organization eligible for a property tax exemption under this Section only if all taxing districts within which the property is situated have adopted a resolution finding that the society is a charitable organization using the property exclusively for charitable purposes.

Here, the appropriate exemption applies to "institutions of public charity." Our courts have long refused to apply this exemption absent suitable evidence that the property in question is owned by an "institution of public charity" and "exclusively used" for purposes which qualify as "charitable" within the meaning of Illinois law. Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156 (1968) (hereinafter "Methodist Old People's Home"). They have also ascribed to the following definition of "charity[.]" originally articulated in Crerar v. Williams, 145 Ill. 625, 643 (1893):

... a charity is a gift to be applied consistently with existing laws, for the benefit of an indefinite number of persons, persuading them to an educational or religious conviction, for their general welfare - or in some way reducing the burdens of government.

The Illinois Supreme Court has effectuated this definition by observing that all "institutions of public charity" share the following "distinctive characteristics[:]"

- 1) they have no capital stock or shareholders;
- 2) they earn no profits or dividends, but rather, derive their funds mainly from public and private charity and hold such funds in trust for the objects and purposes expressed in their charters;
- 3) they dispense charity to all who need and apply for it;
- 4) they do not provide gain or profit in a private sense to any person connected with it; and,

5) they do not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses. Methodist Old People's Home at 157.

The Illinois Supreme Court has stated in People v. Wyanett Light Co., 306 Ill. 377 (1922), and Rotary International v. Paschen, 14 Ill.2d 480 (1958) that the character and purpose for which a corporation is organized, must be ascertained from its Articles of Incorporation. Applicant's Articles of Incorporation provide that it is organized to join together interested persons to study and promote the restoration of historic items in the area and specifically to operate for the benefit of the public, a permanent museum. I find that the applicant with the purchase of the parcel in question is achieving the purpose set out in its bylaws and articles of incorporation.

The bylaws have no provisions for waivers of the dues charged for the various types of memberships that the applicant has instituted. However, the applicant had a number of witnesses testify that they were not dues paying members and still enjoyed the full benefits of membership. I find that testimony credible and find that the applicant did not adhere to the policy articulated in the bylaws regarding members who do not pay their dues by September 1st, become delinquent, and thereby forfeit their membership in the Association and reinstatement only becomes effective upon receipt of current dues. Also, the applicant does not charge for use or tours of the museum or for research done. The applicant charges fees to cover the materials used in their classes; those fees are waived if a student is unable to afford the costs.

I therefore find that the applicant is a charitable organization. I find that there are no stockholders or stock; that no one profits from the venture; that charity is given to all who need and apply for it; funds are derived from public and private charity, and that no obstacles are placed in the way of those who need or wish to partake of the applicant's services and benefits dispensed.

As the applicant complied with subsection (f) of 35 ILCS 200/15-65 by producing the resolutions of the ten taxing districts within which the property is situated showing that they have adopted resolutions finding that the society is a charitable organization using the property

exclusively for charitable purposes, the final question before me is whether the applicant used the property for charitable purposes during the 1997 assessment year.

Prior to January 1, 1997, only apartment No. 1 was available for applicant's use. As of January 1, 1997, I find that the applicant began to renovate and remodel the area previously designated as apartment No. 1 for the purposes of the museum. The applicant removed the kitchen area and wall coverings. Shelves were erected, and by doing so it made the move into the entire building in June much easier. The remainder of the building continued to be rented with the leases expiring at various times in 1997.

Although the applicant asserts that no profits were made from that rental, that is not the legal standard to be used. In Turnverein "Lincoln" v. Bd of Appeals, 358 Ill. 135 (1934), the Illinois Supreme Court, citing People v. Withers Home, 312 Ill. 136, stated "that if property, however owned, is let for return, it is used for profit and so far as its liability to the burden of taxation is concerned, it is immaterial whether the owner actually makes a profit or sustains a loss." *Id.* at 144. I therefore find that portions of the property were let for a return and therefore did not qualify for a property tax exemption for those times.

For the period of January 1, 1997, through May 31, 1997, Apartments 2, 3, and 4 were being rented to various holdover tenants from the previous owner. The applicant did not have control of those areas of the property during that time. The applicant received rent in the amount of \$3,175.00 during that period, although the applicant asserted that no profit was made. Two of the stalls in the garage were rented for \$50.00 per month during the entire 1997 assessment year. The use of three additional stalls was included in the rental agreements for the three apartments.

Regarding the area occupied by apartment No. 2, or 2,000 square feet of the house on the parcel at issue, the applicant acquired access to that area on March 1, 1997. The applicant also acquired right of entry to the corresponding garage stall on that date. I find that the applicant began renovation of those areas when they received access to it.

The persons habitating apartments Nos. 3 & 4 did not vacate those areas until March 31, 1997. The applicant was unable to access those areas and the entire house until June 1, 1997.

I therefore find that the applicant did not use apartment Nos. 3 & 4 of the house during the period of January 1, 1997 through May 31, 1997. The areas occupied by those apartments therefore did not qualify for a property tax exemption for that period because the applicant did not use that portion of the property for charitable purposes during that time. I also find that the two garage stalls leased in conjunction with the rental of apartments 3 & 4 do not qualify for a property tax exemption for the period of January 1, 1997 through May 31, 1997.

I also find that the two stalls of the garage on the parcel in question rented to Darling Construction did not qualify for a property tax exemption during any part of the 1997 assessment year because they were also leased.

Regarding the use of the subject parcel from June 1, 1997 through December 31, 1997, I find that the applicant, once it gained control of the house on the subject parcel, began to immediately adapt the entire house for its exempt purpose. Extensive work has been done to restore the house to its initial grandeur. The Victorian Tour was held at the parcel in question in November 1997, even though the applicant did not have the entire facility ready for inspection. Over 3,700 people viewed the parcel at that time. By the time of the hearing, the museum on the subject parcel was open on weekends with no charges for the use of the facility. Classes were offered on the subject parcel. The grounds had been refurbished.

In the case of Weslin Properties, Inc. v. Dep't of Revenue, 157 Ill.App.3d 580 (2nd Dist, 1987) (hereinafter referred to as Weslin), the Appellate Court held that property which was under development and adaptation for exempt use, qualified for exemption. In that case, Weslin Properties purchased a 24.3-acre tract on May 26, 1983, to be developed into an Urgent Care Center, hospital, and related medical facilities. During 1983, Weslin Properties approved a site plan and hired an architect. Then in 1984, construction of the Urgent Care facility began. In 1985, the Urgent Care Center was completed and occupied.

The Court held that the Urgent Care facility qualified for exemption during 1983, but that the remainder of the parcel did not qualify, as there had not been sufficient adaptation and development for use of the remainder of said parcel for exempt purposes during 1983. The

Court in Weslin noted that the parcel there in issue was to be used as a medical campus, which was a complex and costly undertaking, requiring several years to be completed.

In the same manner, I find that the applicant herein was in the process of adapting the building on the subject parcel as it gained access to the different apartments. The restoration of the house in the proper manner to become a viable museum is also a complex, time- consuming and costly undertaking. By the time of the hearing, which was only one year from the time that the applicant obtained possession of the house, and 1½ years from the purchase of the house, the applicant had made extensive renovations and repairs to the parcel and had opened the building to the public as an historical museum. Illinois Courts have held property to be exempt from taxation where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924); In re Application of County Collector, 48 Ill.App.3d 572 (1st Dist. 1977); and Weslin Properties, Inc. v. Dep't of Revenue, *supra*.

I therefore find that all of the house and land on the subject parcel, except as is noted subsequently, qualifies for exemption for the period of June 1, 1997, through December 31, 1997, or for 59% of the 1997 assessment year. The area that does not qualify for exemption for that period³ is the two garage stalls that were leased to Darling Construction Company for the entire 1997 assessment year. Those stalls comprise 20% of the garage and the corresponding land upon which it stands.

I find that the area of the house on the subject parcel, which is designated as apartment No. 1, or 1,400 square feet of the total square footage of the 6,996 square feet⁴ of the house qualified for exemption for the entire 1997 assessment year.

I find that apartment No. 2, which was vacated March 1, 1997, was used by the applicant immediately for adaptation purposes as well. Apartment No, 2, once vacated, comprised 2,000

³ 59% of the 1997 assessment year.

⁴ 1,400 divided by 6,996 is 20%.

square feet of the remaining 5,596 square feet that was still being rented prior to March 1, 1997. I therefore find an additional 33%⁵ of the house and the land qualified for exemption for the period of March 1, 1997 through December 31, 1997 or for 84% of the 1997-assessment year. The corresponding garage stall also qualifies for exemption for the same period.

Five stalls in the garage were being used for storage of applicant's artifacts, tools and implements necessary for the restoration and maintenance of the museum for the period of January 1, 1997 through December 31, 1997. The Appellate Court of Illinois determined that property owned by a church and used for storage of church records and furniture qualified for a property tax exemption in Our Savior Lutheran Church v. Department of Revenue, 204 Ill.App. 3d 1055 (5th Dist. 1990), *leave to appeal denied*. I find those five stalls of the garage qualify for exemption for 100% of the 1997 assessment year. I find that the garage stall vacated March 1, 1997 in conjunction with the rental of apartment No. 2 qualified for exemption for 84% of the 1997 assessment year. I find that the two garage stalls rented in connection with the leases for apartments 3 & 4 qualify for exemption for 59% of the 1997 assessment year or for the period of June 1, 1997 through December 31, 1997. I also find that two stalls of the garage and a proportionate amount of land on the parcel in question do not qualify for exemption for the entire 1997 assessment year as they are leased for a profit to Darling Construction.

To state the percentages another way, I recommend that the area previously known as apartment No. 1, which comprises 1,400 of the 6,996 square feet of the total house, or 20% of the house on the parcel in question, qualifies for exemption for the period of January 1, 1997, through February 28, 1997, or for 16% of the 1997 assessment year. For the period of March 1, 1997, through June 1, 1997, apartment No. 2 was also vacated and in the process of being adapted by the applicant for exempt purposes. The size of apartment No. 2 is 2,000 square feet. Therefore, an additional 33% of the house on the subject parcel was used for exempt purposes for 25% of the 1997 assessment year. This would mean that the areas of apartment Nos. 1 and 2

⁵ 6,996 square feet minus 1,400 square feet equals 5,596 square feet. 5,596 square feet divided by 2,596 equals 33%.

when added together make up 53% of the house on the subject parcel and that area qualifies for exemption for the period of March 1, 1997, through June 1, 1997, which is 25% of the year.

Apartments 3 and 4 became vacant on June 1, 1997 and at that time 100% of the house on the subject parcel qualified for exemption. The period of June 1, 1997, through December 31, 1997, is 59% of the assessment year. I also recommend that the corresponding garage stalls also qualify for exemption for the corresponding portions of the 1997 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
March 15, 1999